

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

DAVID BREWER,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a  
Delaware Corporation,

Defendant.

CV 14-65-GF-BMM-JTJ

**ORDER**

Pending before the Court are BNSF's Motion for Protective Order Regarding Plaintiff's Fourth Requests for Production (Doc. 183) and Mr. Brewer's Motion for Discovery Issues. (Doc. 177). The parties appeared before the undersigned for oral argument on the motions on October 31, 2016. Plaintiff David Brewer was represented by William Jungbauer. Defendant BNSF was represented by Michelle Friend.

For the reasons discussed in open court, the undersigned issues the following:

**ORDER**

1. Mr. Brewer's motion to depose Rick Stauffer is **DENIED**.

2. Mr. Brewer's motion to depose Rick Barkosowitz is **DENIED**.
3. Mr. Brewer's motion to depose Greg Fox is **DENIED**.
4. Mr. Brewer's motion to depose Lee Spilker is **GRANTED**.
5. Mr. Brewer's motion to depose Dane Freshour is **GRANTED** .
6. Mr. Brewer's motion to depose Scott Rynearson is **DENIED**.
7. Mr. Brewer's motion to depose Tom Ondrezek is **DENIED**.
8. Mr. Brewer's motion to conduct a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) on BNSF's Incentive Compensation Plan is **GRANTED**. The scope of the deposition is limited to how the information on Exhibit O included in Doc. 178 would relate to or impact the bonus of a manager working in Shelby or Havre, Montana.
9. Mr. Brewer's motion to conduct a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) on BNSF's Hours of Service Forms is **DENIED**.
10. Mr. Brewer's motion to conduct a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) on BNSF's Terminal Dashboard Program and Velocity Initiative is **DENIED**.
11. The Court **RESERVES** ruling on Mr. Brewer's motion to conduct a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) on BNSF's Non-Custodial Data Sources. By November 7, 2016, Mr. Brewer must file a document with the court indicating 10 types of information he is seeking to locate. BNSF will then have until November 14, 2016, to respond. Once each party responds, the Court will set a telephonic conference to discuss the matter.
12. Mr. Brewer's motion to conduct a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) on BNSF's Accutrans Policy is **DENIED**.
13. BNSF's Motion for Protective Order Regarding Plaintiff's Fourth

Requests for Production is **GRANTED**.

14. Mr. Brewer's motion for an on-site ESI search is **DENIED**.

15. The Court **RESERVES** ruling on Mr. Brewer's motion related to search terms BNSF used to find information until Mr. Brewer provides his list of 10 types of information he is looking to find.

16. The Court orders that going forward, in addition to the meet and confer that must occur prior to filing motions, the parties must also have a status conference with the Court prior to filing any further motions related to discovery.

DATED this 2nd day of November 2016.



John Johnston  
United States Magistrate Judge